

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO**

**In re POLYURETHANE FOAM ANTITRUST  
LITIGATION**

**This document relates to:**

## ALL CASES

MDL Docket No. 2196  
Index No. 10-MD-2196 (JZ)

## SUGGESTION OF BANKRUPTCY AND APPLICABILITY OF ORDER FOR PROVISIONAL RELIEF

**PLEASE TAKE NOTICE:**

1. On January 12, 2012, Valle Foam Industries (1995) Inc. ("**Valle Foam**") Domfoam International, Inc. ("**Domfoam**"), and A-Z Sponge & Foam Products Ltd. ("**A-Z**", and collectively with Valle Foam and Domfoam, the "**Valle Foam Group**" or the "**Debtors**") filed for relief under Canada's *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), before the Ontario Superior Court of Justice (Commercial List) (the "**Ontario Court**") (the "**Canadian Proceedings**"). The Ontario Court entered its Initial Order pursuant to the CCAA on January 12, 2012 (the "**Canadian Order for Relief**"). The Canadian Order for Relief appointed Deloitte & Touche Inc. as monitor (the "**Monitor**") and foreign representative of the Canadian Proceedings and authorized the Debtors to commence ancillary proceedings under chapter 15 of title 11 of the United States Code (the "**Bankruptcy Code**").

2. Subsequently, on January 23, 2012, the Debtors filed petitions under chapter 15 of the Bankruptcy Code for recognition of the Canadian Proceedings as a foreign main proceeding in the United States Bankruptcy Court for the Northern District of Ohio (the "**Bankruptcy Court**"), thereby commencing Case No. 12-30214, *In re Valle Foam Industries*

(1995) Inc.; Case No. 12-30214, *In re Domfoam International Inc.*; and Case No. 12-30218, *In re A-Z Sponge & Foam Products Ltd.* The Debtors' cases are being jointly administered as Case No. 12-30214 before the Honorable Mary Ann Whipple, United States Bankruptcy Judge, sitting in Toledo, Ohio. The Debtors' bankruptcy cases have not been dismissed or stayed.

3. On January 27, 2012, the Bankruptcy Court entered its Order Granting Provisional Relief which provides, in pertinent part,

1. Pursuant to sections 1519(a)(3), 1521(a)(7), and 105(a) of the Bankruptcy Code, the stay only to the extent of section 362(a)(1) of the Bankruptcy Code (the "U.S. Litigation Stay") is made applicable to all entities with respect to the Valle Foam Group; provided, however,
  - (a) The U.S. Litigation Stay shall not stay any act pertaining to finalizing the Settlements.
  - (b) The U.S. Litigation Stay shall not stay the filing of a new complaint against any member of the Valle Foam Group, but shall stay any act to continue such litigation after the filing of the complaint, including service of process on any member of the Valle Foam Group;
  - (c) The U.S. Litigation Stay shall expire on February 10, 2012 unless the Ontario Court extends the Canadian Stay in which event the U.S. Litigation Stay shall be automatically extended to correspond to the extension of the Canadian Stay.
  - (d) Notwithstanding any extension of the U.S. Litigation Stay, the U.S. Litigation Stay shall terminate upon the expiration of the Canadian Stay or by a decision by this Court to recognize or to dismiss these Chapter 15 Cases.

(Order for Provisional Relief, ¶ 1, attached hereto as Exhibit A). The Order for Provisional Relief, along with the Chapter 15 Petitions and any supporting papers, including the Vallecoccia Affidavit and its exhibits are available from the Monitor through its website at <http://www.deloitte.com/ca/Vallefoam> or upon request at the offices of Kohrman Jackson & Krantz P.L.L., One Cleveland Center, 20<sup>th</sup> Floor, 1375 East 9<sup>th</sup> St., Cleveland, Ohio, 44114, to

the attention of Mary K. Whitmer or James W. Ehrman, (216) 686-8700, mkw@kjk.com or jwe@kjk.com.

4. Upon information and belief, from August 2010 through the present, there have been more than thirty (30) putative class action or "direct action" complaints filed in or subsequently consolidated in or transferred to this Court against the Debtors and certain other companies (together, the "Actions"). Included among those complaints were a Consolidated Amended Class Action Complaint filed by Direct Purchaser Plaintiffs (Document No. 46) and a Consolidated Amended Complaint filed by Indirect Purchaser Plaintiffs (Document No. 52), which served to consolidate certain earlier-filed actions.

5. Section 362(a) of the Bankruptcy Code "operates as a stay, applicable to all entities, of—(1) the commencement or continuation, including the issuance or employment of process, or a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose before the commencement of the case under this title." Thus, to the extent that any Action involves any member of the Valle Foam Group, that Action is stayed as to that member of the Valle Foam Group by operation of the Order for Provisional Relief.

6. Carved out from the general stay described in the immediately preceding paragraph are (a) acts pertaining to finalizing the Settlements and (b) the filing of a new complaint against a member of the Valle Foam Group. For purposes of clarity, while the U.S. Litigation Stay shall not prevent the filing of a new complaint against a member of the Valle Foam Group, the U.S. Litigation Stay shall stay any act to continue such litigation after the filing of the complaint.

7. The filing of this Suggestion of Bankruptcy and Applicability of Order for Provisional Relief is not and shall not be construed as a waiver by the Debtors or their estates of any rights, claims, actions, defenses (including, without limitation, any jurisdictional defenses), setoffs or recoupments, under agreements, in law, in equity, or otherwise, all of which rights, claims, actions, defenses, setoffs, and recoupments are expressly reserved.

Dated: January 27, 2012

Respectfully submitted,

/s/ Shepard Goldfein  
Shepard Goldfein  
Elliot A. Silver  
SKADDEN ARPS SLATE  
MEAGHER & FLOM LLP  
Four Times Square  
New York, NY 10036  
Phone: (212) 735-3000  
Fax: (212) 735-2000  
E-mail: shepard.goldfein@skadden.com

**CERTIFICATE OF SERVICE**

I hereby certify that on January 27, 2012, a copy of the foregoing was filed electronically with the Clerk of Court using the CM/ECF system. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipts. Parties may access this filing through the Court's system.

/s/ Elliot A. Silver  
Elliot A. Silver  
SKADDEN ARPS SLATE  
MEAGHER & FLOM LLP  
Four Times Square  
New York, NY 10036  
Phone: (212) 735-3000  
Fax: (212) 735-2000  
E-mail: [elliott.silver@skadden.com](mailto:elliott.silver@skadden.com)